

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3962 of 1988

For Approval and Signature:

Hon'ble MR.JUSTICE J.M.PANCHAL

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements? No

2. To be referred to the Reporter or not? No :

3. Whether Their Lordships wish to see the fair copy : NO
of the judgement? No

4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder? No

5. Whether it is to be circulated to the Civil Judge? No :

INABEN R MEHTA

Versus

DIRECTOR OF SOCIAL DEFENCE

Appearance:

MR PRANAV G DESAI for Petitioner
MR AJ DESAI, AGP for Respondent No. 1, 2

CORAM : MR.JUSTICE J.M.PANCHAL

Date of decision: 18/02/2000

ORAL JUDGEMENT

In this petition, which is filed under Article 226 of the Constitution, the petitioner has prayed to issue a writ of mandamus or any other appropriate writ or order, directing respondent no.1 to quash and set aside

the order dated July 16, 1988, by which admission given to the petitioner in Teachers' Training College for deafs and mutes, is cancelled.

2. The petitioner passed her B.Com. examination conducted by South Gujarat University. She thereafter decided to join the Teachers' Training College for deafs and mutes. The petitioner made an application to respondent no.2 for joining Teachers' Training College for deafs & mutes. She was called for interview and as she was found to be qualified, she was admitted to Teachers' Training College for a period of one year by a letter dated July 5, 1988. The petitioner thereafter started attending the classes till July 19, 1988. The Secretary of respondent no.2- Institution addressed a letter dated July 19, 1988 to the petitioner informing her that in view of the directions contained in the order dated July 16, 1988 passed by the Director, Social Defence, Gandhinagar, her admission was cancelled. The petitioner has stated that before passing the order dated July 16, 1988, the petitioner was not heard by the Director, Social Defence, Gandhinagar nor any opportunity of hearing was afforded to her by respondent no.2 before cancelling admission which was granted after interview and selection. Under the circumstances, the petitioner has filed present petition and claimed the relief to which reference is made earlier.

3. The petition was placed for admission hearing on July 27, 1988 and notice was ordered to be issued to the respondents making it returnable on August 3, 1988. Thereafter following order was passed by the learned Single Judge on August 3, 1988 :

"Without prejudice to the rights and contentions of the respondents, the petitioner is permitted to attend the classes till further orders. D.S. permitted. S.O. to 5.8.88."

Again, on 5.8.1988, the matter was placed for admission hearing and the learned Single Judge after issuing rule, had directed that the interim order passed on August 3, 1988 would continue till further orders.

4. Though the respondents are duly served since years back, they have not thought it fit to controvert the averments made in the petition by filing reply.

5. The record does not indicate that any hearing was afforded by the Director, Social Defence, Gandhinagar, to the petitioner before instructing respondent no.2 to

cancel the admission which was granted to the petitioner after interview and selection. The record also does not indicate that any opportunity of being heard was afforded to the petitioner by respondent no.2 before cancelling the admission already granted. Under the circumstances, there is no manner of doubt that the impugned orders are passed in flagrant violation of the principles of natural justice and are liable to be set aside.

For the foregoing reasons, the petition succeeds. The instructions given by the Director, Social Defence, Gandhinagar in his order dated July 16, 1988 to cancel the admission granted to the petitioner in Teachers' Training College is set aside and quashed. Similarly, the order dated July 19, 1988 passed by the Secretary of respondent no.2 cancelling admission of the petitioner on the basis of instructions contained in order dated July 16, 1988 of the Director, Social Defence, Gandhinagar is also set aside and quashed. Rule is made absolute accordingly, with no orders as to costs.

(patel)